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SUBJECT: MALAWI - CHILD LABOR INFORMATION FOR TRADE AND DEVELOPMENT ACT

REF: A) 08 STATE 127448

¶1. Summary: The child labor situation in Malawi remains largely unchanged from last year. No new laws concerning child labor, child rights, or trafficking were passed. Violations largely resulted in fines rather than custodial sentences. Approximately 150 labor inspectors are trained to identify and investigate child labor. Social programs with both NGO and GOM support educate the public about child labor and remove children from agricultural and domestic labor situations. To date, programs have removed or prevented over 7000 children from engaging in child labor. Outreach and investigations have reduced child labor on commercial tea and tobacco farms, but it remains a problem in smallholder agriculture and domestic work. The lack of a national identity, birth records, and statistical data makes it difficult to determine the scope and magnitude of the problem and can hinder investigations. Child trafficking continues to take place both internally and across porous borders with Zambia and Mozambique.

Laws and Regulations

¶2. The Employment Act of 2000 remains the primary law governing labor in Malawi. The act sets the minimum working age at 14. Children under 14 are allowed to work inside the home or as part of a vocational technical education program. The act prohibits children between 14-18 from engaging in work that is harmful to health, safety, education, morals, or development, but a list of harmful occupations has yet to be approved and amended to the Employment Act. The Employment Act also prohibits forced labor. There is currently no law prohibiting trafficking specifically, but trafficking is prosecuted using other parts of the Malawi penal code. The penal code can also be used to prosecute child prostitution and pornography. Penalties range from misdemeanors (fine or up to two year prison sentence) for running a brothel or procuring females under 21 with intent to prostitute to felonies (up to 14 years in prison) for defiling a girl 13 years of age or less. The minimum age for military recruitment is 18. Malawi has ratified Convention 182 but has not yet finalized a list of occupations considered to be worst forms of child labor.

Regulations for Implementation and Enforcement

¶3. The Employment Act specifies a maximum fine of 20,000 MWK (140 USD) or five years imprisonment for child labor violations. Forced labor is punishable by a maximum fine of 10,000 MWK (70 USD) or two years imprisonment. Violations are almost always addressed with fines. Current fine levels are inadequate to deter violations and are being reviewed by the government. Court orders and injunctions have not been used to combat employers using child labor. In practice, labor inspectors who encounter child labor warn the employer the first time and only pursue the issue if child labor is encountered on a second inspection. Labor inspectors do not have law enforcement capabilities under the law and must cooperate with police to pursue violations. The lack of national identity cards and accurate birth records complicates investigations.

¶4. According to the Ministry of Labor (MOL), all complaints are investigated, but labor investigators must cover all aspects of employment law. Child labor complaints or tips brought to the labor

inspector's attention are routinely investigated. There are currently 31 district labor offices and an estimated 150 labor inspectors in Malawi. Police victim support unit officers also assist in child labor cases on occasion. In 2008, there was one child labor conviction which resulted in a 13000 MK (92 USD) fine. Additionally, 13 other investigations resulted in out of court settlements where the violator agreed to pay all back wages plus the cost of repatriation of the victims. At the end of 2008, eight child labor investigations were still pending and two cases remained in the courts. There were no reports of convictions resulting in prison sentences.

Resources and Training

¶15. The Ministry of Labor's budget for combating child labor was 351 million MWK (2.472 million USD) for 2008/2009. The Ministry of Labor engages in a multi-faceted program to combat child labor consisting of labor inspections, community sensitization, family support, cash and agricultural input transfers, and education reintegration to put kids back into schools. The MOL continues to provide child labor law enforcement courses to labor officers at the district level. Child labor training also was provided to social welfare officers, police, and magistrates. ILO-IPEC and local NGOs also offer further child labor training to inspectors in some districts. The Ministry of Labor said that all labor inspectors have received child labor training.

Social Programs

¶16. UNICEF, in partnership with the Ministry of Labor has continued the highly successful Lekani (Stop in Chichewa, the local language) program to bring awareness to child issues including child labor. The overall awareness program includes bumper stickers, billboards, and educational books for primary school children, and radio programs. The Ministry of Women and Child Development also has a program that provides cash transfers to low-income families in high-risk districts to enable children to stay in school. The GOM completed a 2.1 million USD, three-year ILO-IPEC project that has removed or prevented over 7000 children from engaging in agriculture and domestic work. The Ministry of Women and Child Development runs a shelter for children in Lilongwe that takes in trafficked and street children. Finally, the GOM works with the World Food Program to provide school feeding programs.

Education and Comprehensive Policy

¶17. Malawi does not currently have a comprehensive policy or national program of action on child labor. The GOM recognizes that poverty is the root cause of child labor and specifically lists fighting child labor as a line item in the Malawi Development and Growth Strategy (MDGS) for 2006-2011 under Theme 2 Social Protection, Sub-theme 1 Protecting the Vulnerable. The MDGS also allocated 25 million MWK (176,056 USD) for activities of the Child Labor Control Unit for 2008. The MDGS does not specifically state activities to fight child labor or link child labor to other activities in the strategy. Primary education in Malawi is free in law although school materials must often be purchased by the student. Secondary education is fee-supported. Education is not compulsory by law.

Progress

¶18. The final version of the 2006 UNICEF/Malawi National Statistics Office Multiple Indicator Cluster Survey (MICS), released in 2008, is the most recent statistical survey with data on child labor and trafficking. ILO also released a study on Child Trafficking in Malawi in September, 2008. The 2002 ILO/Malawi National Statistics Office Malawi Child Labor Report is the most recent comprehensive data set on child labor. The MICS indicated 25.7 percent of children aged 5-14 are involved in child labor activities. Child labor was twice as prevalent in rural areas as compared to urban. Both boys and girls engage in child labor equally. Child labor is still predominant in the agriculture and domestic sectors. Local NGOs and the Ministry of Labor indicated child labor for goat and cattle herding remained high. Many boys participated in vending and

girls as domestic labor in urban areas. The MOL said continued education and inspection of commercial farms has reduced child labor in the tea and tobacco industries, but child labor continues in smallholder agriculture. Without reliable statistics, it is difficult to ascertain if child labor declined this year.

¶ 9. Anecdotal evidence from NGOs suggests that practices such as debt bondage and forced labor exist, but statistics are unavailable.

Trafficking occurs both internally and across borders. Malawi is usually a source for cross-border trafficking, although Zambian children have been found on plantations in Malawi. Malawi's porous borders with Zambia and Mozambique, combined with the common language of Chichewa, enable cross-border trafficking of children for agricultural work between the three nations. Tanzanian women are trafficked to Karonga, in Northern Malawi, for commercial sex; some are likely underage. Mwanza, Phalombe, Machinga, Zomba, Karonga, Ntchisi, Chikwawa, Salima, and Mzimba had the highest prevalence of child labor according to the MICS survey.

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